

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION**

**BRITTEN G. SMITH**

**PLAINTIFF**

**v.**

**CAUSE NO. 1:17CV170-LG-RHW**

**MIKE HAULER, ET AL.**

**DEFENDANTS**

**ORDER ADOPTING REPORT AND RECOMMENDATION  
AND DISMISSING CASE FOR FAILURE TO OBEY COURT ORDER**

This cause comes before the Court on the Report and Recommendation [29] of United States Magistrate Judge Robert H. Walker entered in this cause on April 11, 2018. According to Magistrate Judge Walker's review of the procedural history of this case, the plaintiff failed to appear at a duly noticed *Spears/Omnibus* hearing after being released from custody. The plaintiff has not notified the Court of his change in address, and he was warned that his failure to keep his address current or to respond to orders would result in dismissal of his claims. Magistrate Judge Walker now recommends that this case be dismissed for the plaintiff's failure to comply with the order of the Court to appear at the *Spears/Omnibus* hearing on April 11, 2018. The copy of the Report and Recommendation mailed to the plaintiff by certified mail was returned as undeliverable. (ECF No. 31).

Because the plaintiff has not objected to Magistrate Judge Walker's recommendation that this case be dismissed, the Court need only review the Report and Recommendation and determine whether it is either clearly erroneous or contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989). After having reviewed the Report and Recommendation and the record in this case, the

Court finds that the Magistrate Judge's conclusion is neither clearly erroneous nor contrary to law. Accordingly, it will be adopted by this Court, and plaintiff's case dismissed.

**IT IS THEREFORE ORDERED AND ADJUDGED** that the Report and Recommendation [29] of United States Magistrate Judge Robert H. Walker entered in this cause on April 11, 2018, should be, and the same hereby is, adopted as the finding of this Court.

**IT IS FURTHER ORDERED AND ADJUDGED** that the plaintiff's claims are **DISMISSED** without prejudice pursuant to FED. R. CIV. P. 41(b) for failure to obey the order of the Court.

**SO ORDERED AND ADJUDGED** this the 30<sup>th</sup> day of April, 2018.

*s/ Louis Guirola, Jr.*

LOUIS GUIROLA, JR.  
UNITED STATES DISTRICT JUDGE